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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,497

03/31/2004

Hing Fai Freeman Fung

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02/24/2010

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EXAMINER

CHAMPAGNE, LUNA

ART UNIT

PAPER NUMBER

3627

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,497	<b>Applicant(s)</b> FUNG, HING FAI FREEMAN	
	<b>Examiner</b> LUNA CHAMPAGNE	<b>Art Unit</b> 3627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. Applicant's submission filed on 11/20/09 has been entered.

Claims 1-44 are cancelled. Claims 45-60 are presented for examination.

### ***Oath/Declaration***

2. The oath or declaration has been entered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 45-60 are rejected under 35 U.S.C. 102(e) as being unpatentable by Powell (2001/0032189 A1), as supported by the provisional (60/173,170), and further in view of Shkedy (6,260,024), in further view of Kuelbs et al. (7,136,830)

Re claim 45, Powell discloses a Consumer-to-Business method for consolidating consumer powers in activating market economy, comprising the steps of:

(a) providing a Consumer-to-Business (C2B) network (*see e.g. paragraph 0071 - consumer-to-business transfers of innovation*); and a central processing web site which is ran and managed in a Central Processing Center (CPC) through said Consumer-to-Business (C2B) network (*see e.g. paragraph 0105 - Central Controller 200*);

(b) accepting registration of one or more invention products in an information database of said C2B network, and storing invention information of said invention products provided by Inventors (*see e.g. paragraph 109 – this information is obtained when an originator first submits an idea and registers with the system*);

(c) storing information given by registered Consumers regarding to specific needs of product in said Information Database of said C2B network (*see e.g. paragraph 0029*);

wherein the step (a) further comprises a step (a-1) of verifying said invention information of said invention products in order to be registered in said C2B network to ensure that said invention products are in the state of Reduction-To-Practice (*see e.g. paragraph 0103 – allowing user access to the fully disclosed idea*)

(d) matching at least one invention product in said information database with said information provided by said registered consumers regarding said specific needs of said product; (*see e.g. paragraphs 0043, 0030 – it is apparent that matching between users and originators of products is being performed*);

(e) accepting orders of at least one of said invention products through said Consumer-to-Business (C2B) network from at least one of said registered consumers, and requesting payments from said registered consumers for said ordered invention products of said registered consumers (*see e.g. paragraphs 0078, 0247 – payment is submitted to originator*);

Powell does not explicitly disclose

a method, wherein the step (c) further comprises a step of inviting said registered Consumers to place acceptable purchasing prices for said registered invention products respectively;

accepting the order in such a manner that said registered consumer is able to decide to selectively purchase said corresponding invention products at a predetermined volume and a predetermined price, wherein said registered consumer is also allowed to designate a place for picking up said invention products; and (g) delivering said order products from said contracted Suppliers to places designated by said registered Consumers respectively.

However, Shkedy discloses a method, wherein said step (c) further comprises a step of inviting said registered Consumers to place acceptable purchasing prices for said registered invention products respectively (see e.g. col. 26, lines 60-62).

accepting the order in such a manner that said registered consumer is able to decide to selectively purchase said corresponding invention products at a predetermined volume (*see e.g. col. 5, lines 13-16*) and a predetermined price (*see e.g. col. 7, lines 21-25; col. 26, lines 60-63*), wherein said registered consumer is also allowed to designate a place for picking up said invention products (*see e.g. col. 3, lines 65-67; col. 25, lines 4-7*); and (g) delivering said order products from said contracted Suppliers to places designated by said registered Consumers respectively (*see e.g. col. 3, lines 65-67; col. 17, lines 14-15*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Powell and include the steps cited above, as taught

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by Shkedy, in order to facilitate the ordering process and increase consumer satisfaction.

Powell, in view of Shkedy, do not explicitly disclose

wherein each of said registered consumers are invited to take part into surveys regarding interests and needs in said invention products, wherein said information provided by said registered Consumers is stored into a purchasing database;

using purchasing data analyzed and grouped from said information provided by said registered Consumers to estimate an actual number of orders needed for each of said registered invention products when said purchasing price suggested by said registered Consumers thereto is equal to or more than said suggested selling price thereof

(f) determining and contracting with one or more suppliers as contracted suppliers to produce said ordered invention products at said predetermined volume as ordered by said corresponding registered consumers by the steps of analyzing said purchasing database by said Central Processing Center (CPC) to determine most demanded invention products from said registered invention products requested by said registered Consumers and leave other said registered invention products with lower demands for further uses, locating potential suppliers and negotiating for best terms and specifications of said demanded invention products by said Central Processing Center (CPC), and placing deposit from said registered Consumers directly to said contracted Supplier upon agreement made between said Central Processing Center (CPC) and said contracted Supplier;

However, Kuelbs et al. disclose

Wherein each of said registered Consumers are invited to take part into surveys regarding interests and needs in said invention products, wherein said information provided by said registered Consumers is stored into a purchasing database (see e.g. *col. 15, lines 39-67 – A questionnaire section 357 is provided which elicits customer opinion regarding the desirability or interest of a particular customer to that product*);

using purchasing data analyzed and grouped from said information provided by said registered Consumers to estimate an actual number of orders needed for each of said registered invention products when said purchasing price suggested by said registered Consumers thereto is equal to or more than said suggested selling price thereof (see *Kuelbs col. 13, lines 26-31 – the producer determines run sizes based upon the existing or anticipated commitments. the producer determines the total number of production runs which are to be made*).

*(The Examiner notices that since production number is based on commitments, it is obvious that a commitment could be a price agreement. Price agreement is a design choice and could include a requirement that the suggested purchasing price does not exceed the suggested selling price).*

(f) determining and contracting with one or more suppliers as contracted suppliers to produce said ordered invention products at said predetermined volume as ordered by said corresponding registered consumers by the steps of analyzing said purchasing database by said Central Processing Center (CPC) to determine most

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demanded invention products from said registered invention products requested by said registered Consumers and leave other said registered invention products with lower demands for further uses, locating potential suppliers and negotiating for best terms and specifications of said demanded invention products by said Central Processing Center (CPC), and placing deposit from said registered Consumers directly to said contracted Supplier upon agreement made between said Central Processing Center (CPC) and said contracted Supplier; (*see e.g. col. 7, lines 20-37 – early financial commitment; col. 13, lines 26-29*);

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Powell, in view of Shkedy, and include the steps cited above, as taught by Kuelbs et al., in order to better market the product and plan for production.

5. Re claim 46, Powell discloses a method wherein the step (a) further comprises a step (a-2) of providing a minimum suggested selling price for each of said registered invention products (*see e.g. paragraph 0019 – Originator may also designate a minimum reserve price*).

6. Re claims 47, 48, Powell discloses a method wherein the step (c) further comprises the steps of: (c-1) logging on said C2B network by a Consumer; (c-2) determining whether said Consumer logged on is one of said registered Consumer (*see paragraphs 0152-0153*); (c-3) providing a screen of a brief introduction with



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advertisements along with application form when said logged on Consumer is not one of said registered Consumers (*see e.g. paragraph 0202- advertisers pay to have messages displayed to originators and users alike*); and (c-4) assigning an authorization password for said Consumer to register said Consumer as a new registered Consumer to be capable of entering said C2B network (*see e.g. paragraph 0020 – central controller assigns an originator identification number (user name and password) unique to the specified originator*).

7. Re claims 49-51, Powell, in view of Shkedy do not explicitly disclose a method, further comprising a step of market testing each of said registered invention products by posting surveys in said C2B network, so as to enabling said registered Consumers to indicate interests thereof on said registered invention product.

However, Kuelbs et al. disclose a method, further comprising a step of market testing each of said registered invention products by posting surveys in said C2B network, so as to enabling said registered Consumers to indicate interests thereof on said registered invention product (*see e.g. col. 15, lines 49-53*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Powell, in view of Shkedy, and include the steps of market testing each of said registered invention products by posting surveys in said C2B network, so as to enabling said registered Consumers to indicate interests thereof on said registered invention product, as taught by Kuelbs et al., in order to give

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marketers a better idea about whether consumers would actually buy potential new products or services, and how much to produce.

8. Re claims 52-54, Powell discloses wherein said Central Processing Center (CPC) is arranged to analyze and group said stored invention information as invention product data in a plurality of categories (*see e.g. paragraph 0015*).

9. Re claims 55-57, Powell discloses a method wherein said C2B network is an Internet, and said Information Database is an electronic database provided in a programmed central processing web site (*see e.g. paragraph 0018*).

10. Re claims 58-60, Powell discloses a method wherein said invention products include invention goods or services (*see e.g. paragraph 0085 – an inventive idea for a new product / a new business method*).

### ***Response to Arguments***

11. Applicant's arguments filed 11/20/2009 have been fully considered but they are not persuasive.

12. In response to Applicant's argument that "Powell fails to teach a method for optimally marketing invented products, comprising the steps of (a) providing a Consumer-to-Business (C2B) network, and a central processing web site which is run and managed in a Central Processing Center (CPC) through the Consumer-to-Business

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(C2B) network”, the Examiner disagrees. In the abstract, Powell clearly states that the invention is an online commercial network system easily adapted to business-to-business transfers of innovation as well as consumer-to-business transfers of innovation.

-Applicant also argues that “One of the distinctive features of the instant invention is that the customer’s side of the C2B network does not gain access to confidential information. Moreover, the instant invention does not primarily facilitate granting of licenses.” Such features have not been claimed by Applicant, and therefore, this argument is considered moot. Powell’s teaching of binding agreements between the parties and facilitating the granting of licenses to a user, in addition to facilitating transfers of innovation in a C2B network environment does not, in anyway, render the invention irrelevant to Applicant’s invention.

-Applicant argues that it is merely the “idea” that is submitted to the originator database in Powell. Although the Examiner believes that Powell anticipates a full disclosure of the inventions submitted to be purchased, not just the ideas, the Examiner would like the reiterate such teaching in the following paragraphs: in paragraph 0013, Powell teaches “Potential users may access the fully disclosed idea that corresponds to the chosen nondisclosing synopsis; search engine to search the fully disclosed idea database”. Please see also paragraph 008 where example of ideas are disclosed as *cost savings methods, new business methods, product or service improvements, advertising slogans*.

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-Matching of invention products and specified needs is taught in Powell. See e.g. paragraph 0013 -*Potential users may access the fully disclosed idea that corresponds to the chosen nondisclosing synopsis of define relevant search criteria that is utilized by the controller's search engine to search the fully disclosed idea database and display relevant nondisclosing synopsis with a corresponding relevancy rank.* The Examiner interprets the use of a search criteria from the user to search for and rank relevant innovation as matching the invention products with specified needs.

-With respect to Applicant's argument that "Powell's teaching has nothing to do with accepting offers for products which have already been invented and reduced to practice", please see paragraph 0024 – *(If a user desires to obtain the right to use the FDI or otherwise an option, license, preemptive right, or assignment of the FDI, that user proposes terms of an FDI transfer agreement and communicates the offer to central controller).*

-Applicant argues that "Shkedy does not teach the step of storing information given by registered consumers regarding to specific needs of product wherein this specific need of products are invented products with a view to optimize supply and demand of such invented products"(please see rejection as stated originally under Powell, paragraph 0029).

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-In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

-In conclusion, as set forth in the rejection, the combination of Powell, Shkedy and Kuelbs fully anticipates Applicant's claimed invention.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUNA CHAMPAGNE whose telephone number is (571)272-7177. The examiner can normally be reached on Monday - Friday 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

February 8, 2010

/Luna Champagne/  
Examiner, Art Unit 3627

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627